UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria. Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,483	04/13/2001	Kun Zhang	GEMS8081.081	7333

27061   7590   01/04/2007
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)
136 S WISCONSIN ST
PORT WASHINGTON, WI 53074

EXAMINER
DADA, BEEMNET W

ART UNIT	PAPER NUMBER
2135	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	01/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

MAILED

JAN 0 4 2006

Technology Center 2100

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/681,483
Filing Date: April 13, 2001
Appellant(s): ZHANG ET AL.

Timothy J. Ziolkowski, Reg. No. 38,368
Kevin R. Rosin, Reg. No. 55,584
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed on October 02, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,694,384 B1   Moeller et al.   2-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 101

1.   Claims 17, 19-23 are directed to a method of enabling inactive options resident on a

remote computer. The examiner respectfully asserts that the claimed subject matter does not

fall within the statutory classes listed in 35 USC 101. The claim subject matter is directed to a

data signal representing a sequence of instructions originating from a computer program

executed by a computer. Claim 17 is rejected as being is rejected as being directed to a data

signal. Claims 19-23 depend on claim 17 and are rejected under the same rationale.

Claim Rejections - 35 USC § 102

2.   Claims 17, 19, 21-23 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by

Moeller et al. US Patent 6,694,384 B1 (hereinafter Moeller).

3.   As per claims17 and 31, Moeller teaches a computer data signal embodied in a carrier

wave and representing a sequence of instructions which, when executed by at least one

processor, causes the at least one processor to:

display a GUI (i.e., selection from a menu) configured to facilitate a request over a first

communication interface to enable an inactive option resident on a remote device [column 4,

lines 29-35 and lines 63-67];

receive an input of a device identifier, receive a selection of a usage period, receive a

selection of an inactive option for enablement from the GUI [Figure 2, column 4, lines 34-40, 63-

67 and column 5, lines 11-19];

cause a remote centralized processing station to generate a code (i.e., access key/code) configured to enable the selected inactive option after successful processing of the received inputs and selections [column 4, lines 41-46 and column 5, lines 1-6]; and

transmit the code to the device having the inactive option over a second communication interface different from the first communication interface [column 4, lines 41-46 and column 5, lines 1-10].

4.   As per claim 19, Moeller further teaches the method wherein the code includes an alphanumeric software key [column 4, lines 41-45].

5.   As per claims 21, Moeller further teaches wherein the GUI is accessible via a public communication network and configured to permit communication between a user station and the centralized facility [figure 1 and 2].

6.   As per claim 22 and 23, Moeller further teaches wherein the set of instructions further causes the at least one processor to receive an input of a user ID, a client ID, a system ID, a facility ID, and a selection of a device modality and a software package from the GUI, and wherein the GUI is configured to allow selection of one of a trial use period, a limited use period, a pay-per-use period, and an indefinite use period for the inactive option [Figure 2, column 4, lines 34-40, 63-67 and column 5, lines 11-19].

Claim Rejections - 35 USC § 103

7.   Claim 20 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moeller US Patent 6,694,384 B1 in view of Applicant's Admitted Prior Art (hereinafter AAPA).

8.   As per claims 20, 24 and 28, Moeller teaches a GUI to request activation of an inactive

software program resident in memory of a scanner remotely located from a centralized

processing center comprising:

        a device modality selector, a system identification field, a user identification field, a

software program selector [Figure 2, column 4, lines 34-40, 63-67 and column 5, lines 11-19];

and

        a software key generation tab, where upon user selection of the software key generation

tab transmits a data transmission over a public communication connection to the centralized

processing center, and wherein the data transmission represents a request to activate the

inactive software program resident in memory of the scanner over a private communication

connection [column 4, lines 41-46 and column 5, lines 1-0]. Moeller discloses a scanner

device. Moeller does not explicitly teach the scanner being a medical scanner. AAPA teaches a

medical scanner with installed components, with inactive software components (see for

example page 1 paragraph 2) and activation of such components (see for example; page 2,

paragraph 4). One of ordinary skill in the art would have recognized substituting the scanner of

Moeller with the medical scanner of AAPA. It would have been obvious to one having ordinary

skill in the art at the time of applicant's invention to employ the teachings of AAPA within the

system of Moeller because it would have provided a means for remote activation of software in

medical scanners and added utility to the invention of Moeller.

9.   As per claim 25, Moeller teaches a menu that is configured to display a listing of device

modalities [Figure 2, column 4, lines 34-40]. As for modalities including computed tomography,

x-ray, magnetic resonance, echocardiography, ultrasound, nuclear, medicine and positron

omission tomography, one of ordinary skill in the art of medical scanners would have realized such modalities being available in a medical scanners and be inherent to the display of modalities in the Moeller-AAPA combination.

10.   As per claims 26 and 27, Moeller teaches the method further comprising a period-of-use selector wherein the period-of-use selector includes a dropdown menu configured to display, in response to a user push-button instruction, a usage period including a trial period usage, a limited-use period usage, a pay-per-use period usage, and an indefinite period usage [Figure 2, column 4, lines 34-40, 63-67 and column 5, lines 11-19].

11.   As per claim 29, Moeller further teaches the method further comprising a generate-and-receive button, wherein a user selection of the generate-and-receive button creates the data transmission and represents an authorization to request generation of a software key at the centralized processing center and transmit the software key to the medical imaging scanner [figure 2 and column 4, lines 34-40, 63-67].

Allowable Subject Matter

12.   Claims 1-6, 8-13, 15-16 and 30 are allowed.

(10) Response to Argument

With respect to 35 U.S.C 101 rejections of claims 17 and 19-23, appellant argued that claims 17 calls for a computer implemented process and computer-implemented processes are statutory so long as they are limited to a practical application within the technological arts. Appellant further argued that claim 17 recites the practical application of a process that causes a processor to perform a series of process steps and the process acts carried out by the

processor are a practical application of the process and therefore claim 17 and the claims

dependent therefrom, are directed to statutory subject matter.

Examiner would point out that claim 17 recites, "A computer **data signal process**

embodied in a carrier wave and **representing a sequence of instructions originating from**

a computer program executed by a computer which, when executed by at least one processor,

causes the at least one processor to: .." Examiner would point out that claim 17 is directed to a

functional descriptive material (computer program/software) that is embodied in a data

signal/carrier wave. Examiner would further point out that a claim reciting a signal encoded with

functional descriptive material does not fall within any of the categories of patentable subject

matter set forth under 35 USC 101.

In page 5-6 of the appeal brief, appellant argued that, Moeller et al. fails to teach or

suggest the use of a first communication interface to enable an inactive option resident on a

remote device that is different from a second communication interface for transmitting the code

to the device as recited in claim 17. Appellant further argued that, Moeller et al. does not teach a

request made over a first communication interface and access key code transmission over a

second communication interface that is different from the first communication interface. In page

7 of the brief, Appellant further argued that Moeller et al. discloses that both the request and the

key transmitted for configuring an office device are made over the same communication

interface, and claim 17 calls for an enablement request to be made over a first communication

interface and for transmission of a code over a second communication interface different from

the first communication interface.

Examiner would point out that, Moeller teaches a scanner/scanner pc workstation (figure

1, units 10 & 50) that is connected to the remote browser (figure 1, units 70) **via the Internet 20**

(first communication interface) and also via a **telephone modem connection 120 (second**

communication interface that is different from the first communication interface) [see column 4, lines 3-19 and figure 1]. Examiner would further point out that, Moeller teaches displaying a GUI (i.e., selection from a menu) configured to facilitate a request over a first communication interface to enable an inactive option resident on a remote device [column 4, lines 3-19, 29-35, lines 63-67 and figure 1] and transmitting the code to the device having the inactive option over a second communication interface different from the first communication interface [column 4, lines 3-19, 41-46, column 5, lines 1-10 and figure 1].

With respect to claim 23, which is dependent form claim 17, appellant argued that Moeller et al. fails to teach allowing a selection of one of a trial use period, a limited use period, a pay-per-use period and an indefinite use period for the inactive option.

Examiner would point out that Moeller teaches displaying a GUI (i.e., selection from a menu) configured to facilitate a request to enable an inactive option resident on a remote device [column 4, lines 3-19, 29-35, lines 63-67 and figure 1] and wherein the GUI is configured to allow selection of one of a trial use period, a limited use period, a pay-per-use period, and an indefinite use period for the inactive option [Figure 2, column 4, lines 34-40, 63-67 and column 5, lines 11-19].

With respect to claim 31, which depends from claim 17, appellant argued that Moeller et al fails to teach the claim recitation wherein the first communication interface is a public communication interface and wherein the second communication interface is a private communication interface.

It is understood by the examiner in view of the specification that the first communication interface, the Internet 20 is a public communication interface and the second communication interface, telephone modem connection 120 is a private communication interface [see column 4, lines 3-19 and figure 1].

With respect to claim 20, which depends from claim 17, appellant argued that claim 20 depend from claim 17 and the combination of Moeller et al and AAPA at least fail to teach all elements of claim 17 as discussed above and therefore fails to teach all elements of claim 20.

Examiner would point out that arguments to claim 17 have been traversed as indicated above and therefore arguments to claim 20 are traversed with the same reason applied thereto.

With respect to claim 24, appellant argued that Moeller et al and AAPA fail to teach communicating a feature request over a public communication connection and communicating a software key over a private communication connection.

Examiner would point out that, Moeller teaches a scanner/scanner pc workstation (figure 1, units 10 & 50) that is connected to the remote browser (figure 1, units 70) **via the Internet 20 (public communication interface)** and also via a **telephone modem connection 120 (private communication interface)** [see column 4, lines 3-19 and figure 1]. Examiner would further point out that, Moeller et al teaches a software key generation tab, where upon user selection of the software key generation tab transmits a data transmission over a public communication connection to the centralized processing center, and wherein the data transmission represents a request to activate the inactive software program resident in memory of the scanner over a private communication connection [column 4, lines 3-19, lines 41-46, column 5, lines 1-0 and figure 1].

With respect to claims 25-29, appellant argued that claims 25-29 depend from claim 24 are at least patentable for the same reason as their base claim 24.

Examiner would point out that arguments to claim 24 have been traversed as indicated above and therefore arguments to claim 25-29 are traversed with the same reason applied thereto.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.
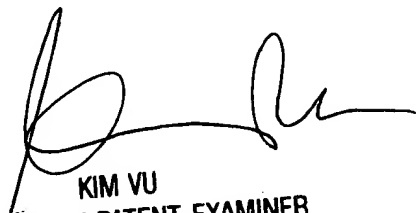
Respectfully submitted,

Beemnet Dada

Conferees:

Kim Vu

Kambiz Zand

KIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100